

## COMMITTEE ON HUMAN RESOURCES/INSURANCE

**January 16, 2001**

**6:30 PM**

Chairman Lopez called the meeting to order.

The Clerk called the roll.

Present: Aldermen Lopez, Sysyn, Shea, Vaillancourt, O'Neil

Messrs: R. Ludwig, R. Dugdale, H. Ntapalis, K. O'Neil, H. Tawney,  
K. Dillon, F. Rusczyk, D. Muller, R. Robidas, D. Hodgen

Chairman Lopez stated with the Committee's approval I would like to change a couple of things because Mr. Ludwig has to go to another meeting. Item 7 will be taken up first.

Request by PRC Director Ron Ludwig for the reclassification of a Maintenance Worker I position, grade 13 to a Carpenter position, grade 15. (HR recommends approval of reclassification as requested.)

Mr. Ludwig stated thank you for accommodating my request because I have to go to the McLaughlin School for the Athletic Committee meeting after this. I will try to be brief. As I indicated in my memo, basically in looking over our complement of people recently it has come to our attention that we have about 18 people in a pay grade 13 category at the present time. Given the workload...we have one carpenter assigned to the entire department at a pay grade 15. Looking over some of the workload and some of the issues that are listed here that are related to liability issues, several facilities are receiving new parks. We receive on an annual basis or semi-annual basis playground inspections and we are having a difficult time trying to keep up with some of those issues. It became apparent to me that because of that it may be in the City's best interest to look at upgrading one of these pay grade 13 positions in our current complement. For the dollars involved, it looks to me to be a good thing to do and we would become more out in front of the some of the work that we are falling behind with. That person would also participate in some of our out building maintenance that is accomplished within the School District at some of those sites where we don't contract out for work.

Alderman O'Neil asked, Ron, is there currently a vacant maintenance worker.

Mr. Ludwig answered there is.

Alderman O'Neil asked what is the possibility of somebody who is currently within the department getting that carpenter's position.

Mr. Ludwig answered I have a few people at the grade 13 position believe it or not. A couple of people who would be very qualified but not willing to do it. I would be more than happy to give the one or two people that I have that could do this work the position. They may apply but I don't think they will.

Alderman O'Neil asked what would be the reason for them not applying.

Mr. Ludwig answered they are not interested. I have a very talented person who is probably 58 years old and has been with us for about 20 years and just has no interest in doing anything but driving a dump truck and doing that kind of work.

Alderman O'Neil moved to approve the request. Alderman Sysyn duly seconded the motion.

Alderman Vaillancourt asked so the cost for 26 weeks would be about \$2,351 so we are talking in terms of \$4,500 to \$5,000 in extra costs for the next full year. Into the future?

Mr. Ludwig answered it would be about the same for the year. It is an entry-level position.

Alderman Shea asked do you have enough to cover this particular position now.

Mr. Ludwig answered yes I do.

Chairman Lopez called for a vote on the motion. There being none opposed, the motion carried.

Chairman Lopez stated we will address Item 11 now.

Communication from Alderman Lopez advising of previous actions relative to ordinance amendments submitted by the Mayor, and requesting the Board allow the Committee on Human Resources/Insurance to review the administrative and financial functions of the city with an eye towards improving the organizational structure and efficiency of these operations and associated internal controls with a recommendation to be brought forward to the full Board.

Chairman Lopez stated I have a special individual here who would like to address a couple of things. As you know, I communicated with the Board in reference to the number of people that we should select to do the administrative aspect of the Finance Department. In doing so, I contacted four of the individuals who were on the list that is in your packet. They are all CPA's and they have indicated to me that this would be a very, very bad time. I will ask Mr. Raymond Dugdale, who is a CPA listed on there, if he can come to the microphone. As you get a chance to read his credentials he is associated with the American Institute of Certified Public Accountants, NH Society of Certified Public Accountants, Chairman of Professional Ethics, NH State Planning and so on as you can read. I don't think there is any need for me to...other than his qualifications since 1973 have been with Dugdale and Venue in Manchester here. He is a very reputable CPA and I would like for him to comment on the conversations we have had and some of the problems that I discussed with him in reference to the Finance Department and I say that very loosely because there is nothing wrong with Finance. It is just to see whether or not we are doing the right thing and only CPA's can tell us that. Mr. Dugdale, you may speak.

Mr. Dugdale stated Alderman Lopez asked if I would comment on the availability of professional CPA's at this time of the year to do a study and also asked me to comment on approximately how much time I felt it would take. This, as you know, is going into the busiest time for most practicing CPA's. If you are looking for a non-practicing CPA in industry then you have generally the same problem if their corporate fiscal years end on December 31. From now until approximately April 15 and then usually a lot of the accountants like to take a rest, I would really be surprised if there was any availability of time, especially on a pro bono basis. This time of the year generally most accounting firms are very busy. First they will do their corporate work and tax returns are due on March 15 and then they will swing into their individual work. I don't quite have that kind of a practice. I do a lot of pension work and State work. I don't quite have that schedule, but we are still heavily impacted at this time of the year. I would think a suitable time for CPA's and public accountants to get involved in this type of pro bono work probably would be in the months of May and June or September, October, November and December. I think anything other than those months, you are asking for something that very few will be able to accomplish.

Chairman Lopez thanked Mr. Dugdale for coming.

On motion of Alderman Vaillancourt, duly seconded by Alderman Shea, it was voted to table this item.

Chairman Lopez addressed Item 3 of the agenda:

Introduction of Mr. Kevin O'Neil, Safety Coordinator, by Mr. Harry Ntapalis with brief update (5 minute presentation).

Mr. Ntapalis stated thank you for the opportunity to come here tonight. If I could, I wanted to hand something out. I will keep it very brief because I know you are pressed for time this evening. This will give you an idea of some of the safety projects that we have been involved with. Kevin O'Neil to my right has come to work with us as the new safety coordinator with the City of Manchester on October 1. He has been with us now for three months. We have been without, as most of you know, a full-time safety official with the City since the late George Piska had left services of the City back in the mid-80's. In recent years, obviously the demands on safety consciousness on the part of an employer our size has been quite important coupled with the fact that the Department of Labor mandates nowadays that employers with over 24 employees have bonified safety programs, safety committees and a safety official. We have to prove evidence of that at least every year in State filings that we provide to the Department of Labor. Kevin has been actively involved in a couple of areas right now. We reinstituted a safety committee that is active at the School Department. It has been a number of years since Lorraine Lamontagne had been chairing that particular Committee that they have been without one. It is going to prove very beneficial. It is up and running. Their first meeting was earlier this month. The City Library that has been wanting to start for the West Side and east Manchester an active safety committee is also engaged in doing so and Kevin's efforts are going to be involved there. Their first meeting, I believe, will be on the 19<sup>th</sup> of this month. The handout that I just gave you gives an idea, a quick idea of some of the more rigorous projects that we want to look at over the next three-month period. If there are any questions, I would be glad to answer them.

Alderman Gatsas stated Item 1 you have is arranged with Mark Burkush and proceed with safety training of all cafeteria staff.

Mr. Ntapalis replied correct.

Alderman Gatsas asked is the School Department still under our comp plan.

Mr. Ntapalis answered the School Department is actually under all of our insurance plans, including comp. They have not broken away. We have not segregated our insurance program in any way to leave them vulnerable at this juncture. They are charged for Kevin's time, my time and any other hard costs that may be associated with providing the service, but they are still under all of our insurance programs.

Alderman Gatsas stated I am looking at most of these. Now I was under the assumption that the Safety Coordinator was going to be hired to set-up safety policies within departments for employees to reduce work injury, rather than to inspect playgrounds for safety because I think that is more of a liability scenario for the City side. My understanding is that the Safety Coordinator was put in place to reduce work place injury or to add to the safety of employees and to reduce worker's compensation costs.

Mr. Ntapalis replied that is part of it. The job description, I think, we may have provided about three months ago to the members of the Board when the hiring took place. Probably 50% of his time is allocated towards worker's compensation. The office also is involved with, as you just mentioned Alderman a number of liability issues and we probably have an equal amount of liability claims against the City of Manchester in any given year as we do worker's compensation. On average, they run about \$500 a piece. Some of them come with major tickets and some of them we can fall behind governmental immunity and limited exposures due to the municipal cap but others can be very expensive and we need to keep the officer's concentration in areas of liability as well.

Alderman Gatsas stated that is certainly not what I understood during the budget cycle of why we were putting another person on board. My understanding during that budget cycle was that the Safety Coordinator was going to be strictly for the worker's compensation side.

Mr. Ntapalis replied the job description does not reflect that.

Alderman Gatsas stated then I can get you the minutes of the meeting, I am sure, that provided when we talked about it during the budget cycle.

Mr. Ntapalis replied you are saying that the Safety Coordinator was not to be working on liability.

Alderman Gatsas responded that is not what I am saying.

Chairman Lopez stated I think the Alderman brings up a very good point and is refreshing my memory.

Alderman Hirschmann stated I have a question relative to the budget. We put this position in the budget and we were going to receive credits, which would in fact lower our premiums. Has that happened this year, Harry?

Mr. Ntapalis replied we are self-insured so there is no commercial credit. There are no rate reductions.

Alderman Hirschmann responded maybe I am saying it wrong. I don't mean to cut you off but we were led to believe that by putting Kevin in that...

Mr. Ntapalis replied with all due respect I don't know who may have led the Board to believe that.

Alderman Hirschmann stated in the budget process we were told that by putting Kevin's position in the budget that it would save the City money.

Mr. Ntapalis replied it would over time no doubt. We are a City of over 2,000 W-2's.

Chairman Lopez stated I think what we have to do here because we are not going to solve this thing is have Human Resources get the job description and get the minutes of the meeting so that we have a clear record and if something has been changed. I think the Safety Coordinator to me is not just an inspector but I think we are not going to solve it tonight because we don't have the documentation so I would like to proceed with that unless anybody has any objections.

Alderman Vaillancourt stated you provided us with an outlet for the future. Could you give us some kind of an idea of what has been done in the last three months in this regard?

Mr. Ntapalis replied during the last three months we focused on areas of worker's compensation. As I mentioned early on, by rekindling safety committees and taking a closer look at the kinds of claims that are on the rise, School is one of them actually along with some of the more labor intense and emergency type departments like Fire and Police, Kevin is an active liaison to all of those committees and reports back to the Safety Review Board. That is pretty much the lion's share of his worker's compensation involvement, plus coordinating the incentive program for the entire City. Again, he has rekindled that program and he has also worked in the area of starting up the Library, which is a first, safety committee for both areas and that is to focus on worker's compensation issues that surround pages and people who get hurt and the general public that are patronizing these particular facilities that have claims constantly. They slip, the trip, they fall. We are trying to mitigate and trying to find ways to alleviate that sort of thing. Next, the Schools in coordination with Parks and Highway during snow removal season and during inclement weather...it has been a free for all. People have been falling, not only teachers, but members of the public in years past. It has spiked our claims. Kevin is monitoring that closely. He is meeting with contract providers, the School Superintendent's office, Parks and Highway to coordinate

that effort. I haven't seen any claims come through this year so there have been initiatives made in that area, both liability and compensation.

Alderman Vaillancourt asked do you have anything to do with the TQM process, either you or somebody in your office.

Mr. Ntapalis answered no. There are just two of us and we are working straight out almost all of the time. We have attended some TQM sessions and done some things along those lines, but we certainly don't spearhead any of the TQM initiatives, Alderman.

Alderman Shea asked, Kevin, could you give us some idea of when you interact with some of the different departments if they have been cooperative.

Mr. O'Neil answered mainly I am doing the School Department and snow removal and ServiceMaster has been extremely cooperative as far as the things that they are doing. Also, PBS is helpful with snow on the roofs of the trailers at some of the schools. Both of those departments have been very cooperative so far.

Alderman Shea asked in getting back to what you said, Harry, you mentioned that the claims have been practically null...there haven't been...I mean when you contrast this year to last year there has been positive...

Mr. Ntapalis answered significant change, Alderman, thus far. The last two years we started to spike on School claims. They had no safety committee and they really didn't have much direction. We interceded and provided that service and we noticed that we are not getting the types of claims that we were.

Alderman Shea asked so that has been the result of Kevin working directly with personnel at the School Department, etc.

Mr. Ntapalis answered yes. Cafeteria where we used to have losses and people doing things that hurt themselves ergonomically, lacerations of fingers, improper lifting, Kevin is now coordinating one of the things with Mark Burkush and it will be training for all of the elderly ladies who are providing an essential service.

Alderman Shea asked when he works with the cafeteria workers, does he design an outline for them. Does he given them a guideline to follow in terms of preventing accidents?

Mr. O'Neil answered the seminar that we are going to be doing will cover all of that. We haven't got to the point of scheduling it yet but it will cover all of that.

They are going to learn how to clean things, cut things, etc. so they don't get hurt. We have videos on all of that.

Chairman Lopez stated on behalf of the Committee, Kevin, we welcome you and I am sure that we will get this thing squared away as to Alderman Gatsas' question.

Mr. Ntapalis stated I would like to make one last point. The only thing, as I mentioned, when the late George Piska provided the service to the City it was full range. His 40-hour workweek was liability, auto, worker's compensation and that is something that we have been without since the mid-80's. We pretty much, and Howard correct me if I am wrong, we mirrored that particular job description. We thought that was the pleasure of the Board. We didn't feel that we were going to limit the Safety Officer's involvement. That is the only reason we are at this juncture.

Alderman O'Neil stated I do remember what kind of prompted bringing back the Safety Coordinator's position and it was when we were talking about worker's compensation. I think Alderman Gatsas started that discussion and felt that any savings would be positive, but what I recall was we did not limit the liability side because that is out there. I just want to say I know he must be doing his job because I have heard some Highway employees...he is constantly on them about having their safety vests on when they are on the back of the garbage trucks. It may seem like a small issue, but all it takes is one of them getting hit by a car and it is no longer a small issue.

Alderman Gatsas stated off of this subject but on to a more important one, of the outstanding claims, Harry, how many...because we are going to be coming to a budget cycle here pretty quick and I am wondering what you have cleared off the books.

Mr. Ntapalis replied I knew that was coming sooner or later, Alderman. You had brought it up last year. No doubt a lot of the old claims that were really draining us dry we have managed to clear the books of about a dozen this year. It was painstaking for people like Highway because at least a half a dozen of those old...

Chairman Lopez interjected let's get to the meat of this.

Mr. Ntapalis stated there are two that are still remaining that are costly. They don't want to budge. We are working on those right now but we dropped the cost from \$17,000 a week to \$4,500 a week on paying those outstanding indemnity payments.



Alderman Gatsas asked what are we...the total amount of the claim looking to be paid is how much on the two of them.

Mr. Ntapalis answered one attorney, without getting into details, one is a \$500,000 demand and there is no way that we can pay someone with conservative injuries that kind of money. They are quite content to be out there collecting a check.

Alderman Gatsas stated let's put the mathematics to it for a second if I can follow through. How long have they been collecting and how much have they collected?

Mr. Ntapalis replied 10 years roughly.

Alderman Gatsas asked how much have they been collecting a week.

Mr. Ntapalis answered they were maxed out at their period of time. They were looking at checks for about \$600.

Alderman Gatsas asked what are they looking at now.

Mr. Ntapalis answered given their life expectancy, probably \$250,000.

Alderman Gatsas asked what are they collecting now weekly.

Mr. Ntapalis answered whatever they were rated at at that time. It is \$600.

Alderman Gatsas stated so for 10 years we have paid \$600 a week. My quick math says \$30,000 a year and says \$300,000 so for the \$500,000 that we could have settled, are we going to spend another \$300,000 for the next 10 years or are we just going to look to settle and maybe get a little bit more serious on the settlement because we continue paying when we can stop the blood from running.

Mr. Ntapalis replied it is an extreme demand and we have never paid that kind of money. Again, their claim at this juncture doesn't merit that kind of money. It is something that we are looking at. There are some other avenues that we can talk about at a later time such as annuities and so forth.

Alderman Gatsas asked what about the other claim.

Mr. Ntapalis answered the other claim again is something very similar. Both of them are in the emergency departments without getting into specifics. They were highway journers. They had served their time. Both of them are pensions a well so income isn't a motivation for them. It isn't as though if we throw out a major

amount towards settlement we can shake them loose. That is what we are up against.

Chairman Lopez stated I think also that what we have to do is maybe get a handle on this and tackle it at another meeting to get all of those answers before the budget process so that we have a clear picture and maybe we can add to it at another meeting.

Alderman Shea stated before Kevin was hired, we did pay someone for twice a week employment. Is that correct?

Mr. Ntapalis replied yes we did. As you recall, for eight years we had a safety consultant, but there was a period of about an equal amount of years that we were bare. We really didn't have anybody to focus on those issues.

Alderman Shea asked so we don't have that person anymore. He was replaced by Kevin?

Mr. Ntapalis answered the only time that person comes on board is if there is a special project that he hasn't tailored off and Kevin has taken over. He will work with Kevin maybe one day every two or three weeks to make sure that he knows what needs to be done.

Chairman Lopez asked that all Aldermen be given the information on the Safety Coordinator's job description and the minutes from the budget meeting discussing the position.

Chairman Lopez addressed Item 4 of the agenda:

Copy of a communication from Mr. Kenneth Pitman relative to his displeasure with the City's Workers Compensation/Northern General Services of NH, LLC handling of his claim.  
(HR recommends communication be received and filed.)

Mr. Tawney stated that information was forwarded to Northern General and I believe you have their response.

Alderman O'Neil moved to receive and file this item. Alderman Shea duly seconded the motion.

Alderman O'Neil stated this led me for the first time in a long time to take a look at our workman's compensation situation in the City and there is an old saying where I come from the construction industry "where there is confusion, there is

cost” and there is confusion here. There is no question about it. Secondly, the workman’s compensation system in the City of Manchester certainly is not employee friendly. There are as many as six hands in our workman’s compensation situation. You have the employees, themselves, the department they work for, Risk Management, Northern General is our administrator, the Finance Department and then Human Resources. All it takes is one of those to not follow through and it really hurts the whole situation. I hope at some point we can take a look and try to streamline our workman’s compensation situation. In turn, we may end up being able to drop some of those costs. There is not consistency in the City of Manchester with regards to modified duties. Some departments do it and some don’t. I know we have a full slate tonight and I don’t want to tie it up, but I hope at some time we can take a good look at our workman’s compensation. Harry sat down with me one night after work and we reviewed it and I have a pretty thorough understanding, I think, of how it works here but I can tell you it is not a very smooth situation as far as I am concerned.

Alderman Hirschmann asked Northern General Services, Howard, how long have they been the administrator of workman’s compensation.

Mr. Tawney answered I would have to rely on Harry for that answer. He contracted for them.

Mr. Ntapolis stated they are in their third year now, Alderman.

Alderman Hirschmann stated so they would have been aware that Mr. Pitman has been injured as a police officer four times since 1993.

Mr. Ntapolis replied correct.

Alderman Hirschmann stated to me this is appalling that a police officer or anyone who works for us is treated like this and given a prescription for therapy on his back and it took nine months to get that filled so the guy is laying at home for six to nine months without getting his therapy because this company that works for us didn’t get it done.

Mr. Ntapolis replied actually it was in May that the bill was submitted and unfortunately it wasn’t submitted in the format by the vendor, which was the Executive Court Club, that the City is accustomed to receiving. You have to have a vendor ID and so forth and to make sure that the checks are processed. In August, it was finally paid so it wasn’t really nine months, but again it was an unacceptable period of time.

Alderman Hirschmann responded his letter was dated October 20 and her later is dated November 20 and I noticed that the woman who wrote the letter is the former Labor Commissioner for the State of NH who is now working for this company. I would hope that all of our City employees are treated a lot better than this. This really agitated me reading this. I am not on this Committee. I came down there for this.

Mr. Ntapalis replied as I said they process about 500 claims a year. Are we perfect? No.

Alderman Hirschmann stated well I would like to write a letter to her or have the Committee write a letter to her for this man to not get his therapy for six months.

Mr. Ntapalis responded she takes this quite seriously. She spoke to me before I came to the meeting offering to be here and I said that I didn't think you would have time to discuss it but sometime during the budget process we may be able to do that.

Alderman Hirschmann stated be on notice that if one more of these, if one more City employee is treated in this fashion this company will get a letter either from the full Board or this Committee. I can assure you of that.

Alderman O'Neil stated just to follow-up on Alderman Hirschmann, Keith, some of the things that I found out when I talked about the six hands is sometimes the problems have nothing to do with Northern General. It could be Finance where there might be the problem. It could be HR where there is a problem. It could be the employee's department that didn't process a piece of paperwork so that is what I said. The whole system needs to be revisited because it is not an easy system for an employee. I can tell you that.

Chairman Lopez called for a vote on the motion to receive and file. There being none opposed, the motion carried.

Chairman Lopez addressed Item 5 of the agenda:

Request for pay grade change of the Airport Director from grade 31 to grade 36.

(HR recommends approval of change, and Mayor Baines endorses such recommendation as well - ordinance attached).

Chairman Lopez stated I consider this position different than any other department head in the City. He is responsible for an annual budget expense of over \$30 million, revenue of \$34 million, for capital construction of \$320 million and also

\$123 million in planning and design efforts for additional capital construction. He is responsible for operating and maintaining a physical plant valued at over \$1 billion, responsible for a total of \$223 million in Airport revenue, so on and so on. He also has a reputation in the City as being somebody who can communicate with everyone and people are out there trying to snatch him away from the City.

Alderman O'Neil moved to approve the request for a pay grade change for the Airport Director from 31 to 36. Alderman Vaillancourt duly seconded the motion.

Alderman Vaillancourt asked regarding the letter from Howard, on the second line you say that the medium hub has an average CEO salary of \$125,000 to \$129,000. Now Manchester is considered a medium hub?

Mr. Tawney answered that is correct.

Alderman Vaillancourt asked so this, in fact, does get us over the average then. If the average is \$125,000 to \$129,000, this puts us beyond the average.

Mr. Tawney answered slightly, yes.

Alderman Vaillancourt stated the other question I have concerns assistants. This doesn't change any of the assistants at the Airport and is there any request to do that? Have you heard anything...will there be any momentum to do that if we approve this?

Chairman Lopez asked Mr. Dillon to come to a microphone and address that question.

Mr. Dillon answered there are no plans at this point to submit any reclassification for the Assistant Directors. There was a salary review that was done of their position under an appeal to Yarger Decker where there was an adjustment made to the salary earlier this year.

Chairman Lopez called for a vote on the motion. There being none opposed, the motion carried.

Alderman Levasseur asked grade 31 was the highest in the City.

Mr. Tawney answered that is correct.

Alderman Levasseur asked so now you are going to jump up five steps to a grade 36 so that means that every other department head is now eligible to go for those five grades or is this just a once in a lifetime thing.

Mr. Tawney answered this is a once in a lifetime thing. There are 33 grades and he was at a grade 31. We, in response to the market conditions and looking at where the salary range should be and giving the department head an area to grow, we moved it up three full grades. We moved the classification from a grade 31 to a grade 36. The other positions are graded on a point factor system. This position is taken out of that and it is placed where it is because of market conditions. None of the other department heads have those factors impacting them.

Alderman Levasseur asked so you say that we have 33 grades now, not 36.

Mr. Tawney answered we had 33 to begin with.

Alderman Levasseur asked how many other department heads are at grade 33 right now. Are there a number of them?

Mr. Tawney answered there are none. I think the highest was the grade 31 at the time and that was Mr. Dillon.

Alderman Levasseur asked so you don't think you are opening a can of worms by all of this.

Mr. Tawney answered no.

Alderman Vaillancourt stated I would just like to say and I think everybody knows that I don't want the City to spend one penny more than absolutely necessary and I think we should note that this does not cost the taxpayers of Manchester a single cent because it is Airport funds and I think we are probably making lots of money at the Airport and I do want to point out two words in the letter from Mark Hobson that are most critical. Those are "market conditions." I think this is a unique, as the Chairman said, unique position and shouldn't be considered in the same realm as other departments.

Chairman Lopez addressed Item 6 of the agenda:

Proposed change in structure to the Community Health Division submitted by the Public Health Director.  
(HR recommends approval of organizational change as proposed.)

Alderman O'Neil moved to approve the change. Alderman Sysyn duly seconded the motion.

Alderman Shea asked for an explanation.

Chairman Lopez answered the information is in your packet. They have taken the liberty of giving you the existing organization to show you the whole department and then the proposed organization change that he can address.

Mr. Rusczek stated this reorganization really started when the Health Department, over the spring months, entered into a periodic strategic planning process where we examined our services and our staffing and looked at how we should best be organized to be prepared for the work we are doing today, as well as the work into the future. When, in the first few months of this fiscal year we had the resignation of two community health nurses, we felt that this was an ideal time to say okay the resignation of two community health nurses as well as the grant award of \$50,000 - \$40,000 of which goes to support salaries to reorganize our community health division to do a few things. One of the is it establishes work teams. If you look at the community health division today, about 1/3 of its operating costs come from outside funding. That compares, by the way, with less than 10% when I became Health Officer back in 1987. That outside funding comes with the increased responsibilities for program reporting, for working closely with the State and other funders and for completing some of the community activities that relate to the funding sources. So, this establishes work teams that are better aligned with some of the funding sources and helps us improve both our program reporting and the monitoring of those programs and at the same time it frees up our community health supervisor to look a little more at the big picture, including other funding sources, to work more closely with community agencies to not provide public health services, but to find ways to improve access to health care that in turn reduces some of the public health issues in the community. Overall, the entire cost of this is covered within our current budget and within the additional funds for doing some TB work. One thing that many people don't know about our community health division is that it is not a 9 AM-5 PM, five-day a week position. Some of the work, for example, when we have an individual who is infected with tuberculosis, requires that the community health nurses work seven days a week going out into the home and doing home monitoring. That happens whether it is a holiday or what have you. This will help us by adding, in lieu of a community health nurse, a public health translator and we have had tremendous success with our current public health translator position. That will help us in this regard.

Alderman Shea stated this has nothing to do with the community in a sense, but does every school have a school nurse now.

Mr. Rusczek replied yes. Actually, there is a piece of this that is included in the addendum that relates to school health. Every school has a school nurse, but if we look at our smaller schools, such as Bakersville, we don't have...every school has a school nurse every day but a smaller school like Bakersville would have five

hours per day. Every other school has full time. Some of them, such as the high schools where they are seeing a child every two minutes, have the additional support of an LPN. Another reason for some of the internal reorganization was to free up some money to address some of the issues in school health. We have 32 direct reports to one supervisor in school health. Mary Anne Cooney supervises 32 people directly spread throughout the City. We were hoping to free up some money to provide a lower level of supervision with working school nurses. In meeting with Mary Anne and the school nurses and through our Service Excellence Team, which is our Total Quality Management Team that has been in place for about five years, we determined that there are some critical service needs first. We are looking to increase one of our part-time school nurses to full-time and that should help to free up some of our certified school nurses to provide some support to Mary Anne Cooney in school health supervision, but not get us everything that we would really want.

Alderman Shea asked when you provide a school nurse, is that part of the School Department's chargeback to you folks. Do they pay the Health Department for a school nurse?

Mr. Rusczek answered yes they do.

Alderman Shea stated so basically that is not a funding problem for your department, it is a funding problem for the School Department.

Mr. Rusczek replied it fits within the money we projected to the School Department that the cost would be this year. We just made our budget presentation, by the way, to the School Board on Saturday morning.

Alderman Shea asked do any school administrators or any school secretaries or any school assistant principals give medication, shots or anything now to students or is that all handled through your department.

Mr. Rusczek answered shots, absolutely not. There has never been a non-nursing staff person in the schools that I am aware of that has ever given shots. As far as oral medication, that could still occur here or in Hooksett or in any other school district. It is a very, very infrequent occurrence if it occurs at all. We have substitute school nurses. One of the other issues that we are facing is the competition for substitute nurses has been bumped up. We pay our substitute school nurses \$75 a day. We understand that the communities right outside of us are now paying \$100 a day so all of the sudden our substitute pool has shrunk but this will help address that as well by providing that extra half time nurse that could be pulled to fill in for a nurse if need be.



Alderman Vaillancourt stated I am just trying to project out into the future because it looks very good that we are saving \$11,432 by doing that this year. Can you project a couple of years out if this is going to be a savings or an extra cost in a couple of years?

Mr. Rusczek asked do you mean from the growth in the salaries of the individuals.

Alderman Vaillancourt answered no. I mean primarily the \$35,000 that you have put in there with the CDC funding project.

Mr. Rusczek stated into the foreseeable future, Alderman, we don't see that there will be a tremendous change in the TB responsibilities within the Health Department so in five years when that money disappears, if it does, it may very well be continued. It could very well be that there will be some additional source of money to support that. TB control today represents a tremendous amount of work for our community health division. It is one of those diseases that has reemerged because as a country we have dropped our vigilance and hopefully we won't make the same mistake again.

Alderman Shea stated down in Lowell or Lawrence they are having a real problem with TB at a Head Start program down there because of the infection of one of the workers that was involved. I think it is important that we keep on top of that.

Chairman Lopez called for a vote on the motion to approved the proposed organizational change. There being none opposed, the motion carried.

Chairman Lopez addressed Item 8 of the agenda:

Demotion Policy (Water Works) -- City union leadership (COPE) requests that affiliated employees receive and same standard as non-affiliated employees.

(HR recommends the Committee director HR to apply the current demotion policy equally to affiliated and non-affiliated employees, and recommends in this case specifically that the Committee director the HR Director to apply the policy immediately to these employees along with any retroactive pay resulting from the action.)

Chairman Lopez stated I know that this Committee wants to always treat the employees fairly whether they are union or non-union when it comes to benefits. Once we approved Yarger Decker we thought that a lot of these problems were going to be resolved.

Alderman O'Neil asked could we hear from Mr. Roche on this.

Chairman Lopez asked are you saying that his communication on Item 12 is the same as this. Okay, then we can hear from him.

Mr. Roche stated the reason I wrote this letter is a couple of employees at the Water Works have been shortened in their pay because the City has not followed the ordinance. In communications with the HR department, this is not anything new. Some people think this changed with Yarger Decker in November of 1998, but this actual ordinance started in June of 1967. It is basically the same language that Floyd worked with and you people approved on November 4, 1998. The language is virtually the same. It is Section 18-36 (F). What has happened is the people who take a voluntary demotion...I have one person who lost over \$1 an hour when he should have only gone down 22 cents an hour. There is a second person that is losing 81 cents an hour as well. The ordinance does say the least loss in pay. The union and the employees just want the City and the various departments...I found that it is not only being treated than the non-affiliated. There was an employee three months ago that transferred from the Airport who was in a bargaining unit and he transferred to the Police Department. He went from a pay grade 17 to a pay grade 16 and he only lost 12 cents an hour, which was correct. We expect that at the Manchester Water Works and hopefully throughout the City because Yarger Decker was, as you said earlier, to treat everyone equally.

Chairman Lopez recognized David Hodgen, Chief Negotiator.

Mr. Hodgen stated I think Michael has corrected the misstatement that he made in his letter to the Board wherein he stated that the ordinance was changed as a result of the Yarger Decker study. It was not. I have a copy of the ordinance that was adopted by the Board in November of 1998. The only thing that was changed in that section of the ordinance was the reference to the Personnel Director and the reference to the Personnel Committee. Other than that, not one other word was changed in that section. Now, this problem raised its head about a year ago in the Highway Department and in the Fire Department and of course that was after the Yarger Decker study had been adopted. At that time, employees were asking to take voluntary demotions so that they could go from a higher paying position to a lower paying position with much less responsibilities and retain their old rate of pay. The Fire Chief and Frank Thomas contacted me and were concerned about it. I did some research at that time and that research is reflected in my memorandum that is part of this package. The practice, to my knowledge, always in the past was that if an employee took a voluntary demotion from a higher pay grade that he would go to the lower pay grade and keep his pay step. So, for example, if he was a pay grade 20 and he went down to a pay grade 19 and he had been at step D, he would go from a 20 D to a 19 D. That is not what the ordinance says. The

ordinance talks about people taking the smallest possible decrease in pay. I can't tell you what might have happened many years ago. I know as the result of Howard and I looking at the records that that has not been applied to any non-affiliated employee that way since the Decker study was adopted. I don't know what was done in the past. I think that Mr. Roche has a good point. I do think that the non-affiliated employees and the affiliated employees should be treated the same. I think that the ordinance should be amended so that the non-affiliated employees are treated the same way that the affiliated employees have been treated for years. In other words, if they were a 20 D they would go down to a 19 D. The problem that arose in the Highway Department and in the Fire Department was that employees wanted to go from a Captain's rate of pay in the Fire Department to a firefighter's rate of pay in the Fire Department, give up a lot of responsibilities, but maintain the same rate of pay. Now, it is possible that the Fire Chief could prevent that and not allow the person with a Captain's rating to take that kind of voluntary demotion, but in some union settings I think we would be hard pressed to prevent that. Mr. Hobson, in his recommendation, said that this ordinance will promote bad practices or bad habits by employees. You bet it will. In the Highway Department, we had an employee who went from a regular truck driver's position to a refuse truck driver's position. That encompasses a one pay grade increase, then...and the other ordinance that is related says he will get at least a 10% raise when he does that. I have no quarrel with that. Then, he wanted to go back to the regular truck driver's job and keep the 10% raise and wait for the next time that a refuse truck driver's job was posted and apply and get that and get a 10% raise again and hopscotch his way all the way to the highest step in the pay grade. The ordinance, as it is written, to my knowledge has never been applied literally and it should not be and it should be amended so that it reads and will operate the same way that we have treated the unions for years and then we will be treating the non-affiliated employees and the affiliated employees the same way and we won't be encouraging employees to use our own ordinances against us.

Chairman Lopez asked are we all agreeing with the recommendation of HR. Are you saying that you agree?

Mr. Hodgen answered I want to be very careful.

Chairman Lopez stated when Yarger Decker was put into place and approved by the Board of Mayor and Aldermen, if there was some ordinance they could play with then it should have been changed. Once something is approved by this Board, just because an ordinance exists and it conflicts with that ordinance, then somebody has to amend that ordinance. It doesn't mean that we approve something as a full Board and because the ordinance is wrong we stick by the ordinance. Someone has to come in with an amendment to the ordinance. That is

the way it should work. You can't go back in 1998 if Decker was approved finally in 1999. You have to go back and amend the ordinances that reflect that.

Mr. Hodgen replied that is what I am suggesting.

Alderman O'Neil stated I think David's example with the Highway Department could happen. I hope it wouldn't. I think...I don't know what do we have approximately 1,000 or 900 non-School District employees in the City. Maybe we are going to have one person who is going to try to work their way around the system. The situation in the Fire Department is not a very good example because that person was never a Fire Captain. It was a person who was moved in from a Private's pay to a Captain's position that really should be a Captain, not a Private. It is not a very good example on this about a demotion because it is not a demotion really.

Mr. Hodgen replied he receives Captain's pay.

Alderman O'Neil responded he never tested to be a Captain though. It is not a good example to talk about him coming back. We should talk about how he got there to begin with. That is a more interesting discussion for another night. I do appreciate Dave's comment with regards to the Highway employee and the potential for abuse but we have 1,100 employees and we should give them the benefit of the doubt on this. I believe there are mechanisms there to prevent it.

Mr. Roche stated I would like to refute some of the things that Mr. Hodgen said. For starters, Mr. Hodgen was talking about past practice. I don't recall in 28 years anyone being demoted, taking a voluntary demotion. I really can't remember. Number two, the ordinance is crystal clear for both non-affiliated and affiliated employees. If Mr. Hodgen does not think and his April 17 letter says that, that the ordinances apply to us then many times in the past the employees at the Water Works who went up four pay grades, which under the old system would have been a 20% increase, none of them because of the City ordinance could go up more than 10%. Now that was never in any of the eight contracts that I negotiated, but I am coming here and hearing that the City wants to pick and choose which ordinances apply to the employees. If they can save money, they apply to us and if they can't, then it is a gray area and we are going to use the past practice. I think that is a crock of bull.

Chairman Lopez stated I want to stay focused on this policy that all employees should be treated equally regarding demotions.

Mr. Hodgen stated I have no complaint with that. The concern that I have is neither the union employees nor the non-union employees should be treated under

the ordinance as it is presently written. I don't know of any non-union employees who have been treated that way. I did check with Frank Thomas and Tom Bowen last year prior to my April memo to find out how we had handled it in their departments in the past and I was told that we did not handle it in accordance with the ordinance.

Chairman Lopez replied this is not up to department heads. This is a policy of the City and department heads...whatever the City's policy is on this particular issue, all department heads are going to follow.

Mr. Roche asked who is supposed to enforce the City ordinances when you have the Human Resources Director that signs it and you have the department head that signs it. How much money do these people make every week? Who is supposed to know what the ordinances are? Who is supposed to be watching out? There is no accountability for what is going on.

Chairman Lopez stated the ordinances that effect the different departments in this City, along with the City Solicitor and everybody else are supposed to watch the ordinances. Let's stay focused now. We are talking about this demotion policy. That is all we are talking about. We want equal treatment and the recommendation is to have equal treatment among the employees.

Alderman O'Neil moved to approve the recommendation from HR that regarding the Demotion Policy, this policy apply equally to non-affiliated and affiliated employees. Alderman Sysyn duly seconded the motion.

Alderman O'Neil stated if I understand the comments that were made and I don't know if David or Mike made them, but they may be treating them the same but they are just not following the ordinance in doing it. Is that correct?

Mr. Hodgen replied I don't know of any non-affiliated employees who have been treated under the ordinance. Now Michael talked about an employee who transferred from the Airport to the Police Department. I am not familiar with that. I don't know whether he was a union employee before or if he was a union employee after. I don't know what happened in that case.

Chairman Lopez stated well our vote clears this up so there is no doubt in anybody's mind. If we have to change an ordinance or amend an ordinance, whatever the case may be, that is your responsibility to take care of and bring to the Board.

Mr. Hodgen stated I think that if the Board votes that everybody be treated the same then...

Chairman Lopez interjected on the demotion policy. We are talking about the demotion policy here.

Mr. Hodgen responded yes. Howard and I will talk to Mark Hobson and recommend to him that this ordinance should be changed. How that will play out and what the outcome of that will be, I don't know. I believe that it should be changed, otherwise the City will be abused by its own ordinance. If I might continue, there is a misconception afoot which is troublesome to me as our Chief Negotiator. This Committee and perhaps the Board as a whole thinks that the City ordinances apply to the unions and from time to time Mr. Roche says, and in fact in this case he says they do, but I could give you a list as long as my arm of City ordinances that would provide less than the unions receive. We have a City ordinance on holidays and it lists them. There are unions that receive more holidays than are provided in the City ordinance. We have one that is a pet peeve and I don't blame him, for Mr. Roche, and that is the one that deals with worker's compensation supplemental pay. Mr. Roche's people don't benefit from...

Chairman Lopez interjected I don't mean to cut you off other than to say we have a long agenda and I think what we need to do is maybe you come before the HR Committee and educate us as the Chief Negotiator as to what is going on and what your problems are. I thought that Yarger Decker was going to solve a lot of these problems and we paid a lot of money for it. So, maybe you can work it out with HR and come to the next meeting to give us some type of education on what you do.

Mr. Hodgen replied I would appreciate that.

Alderman O'Neil stated I want to ask Mr. Roche before he leaves, based on the action that we took tonight do you believe what we did solves the problem that happened in your department.

Mr. Roche answered yes if these people are going to be paid retroactively, yes. I also heard Mr. Hodgen say that he wants to come back in a month and change it so everyone gets shafted in the future.

Alderman Vaillancourt stated I will vote for this with the knowledge that you will be working on an ordinance change to come forward.

Chairman Lopez called for a vote on the motion. There being none opposed, the motion carried.

Mr. Tawney asked are you saying then, as a Committee, that we are to pay these people retroactively. What are we saying? I am not sure what you want done here.

Chairman Lopez answered I think you have to look at the HR recommendation. He asked for us to allow him to apply the current demotion policy equally to affiliated and non-affiliated employees along with any retroactive pay resulting from this action.

Alderman O'Neil stated that is the recommendation from your department.

Mr. Tawney replied I was just confused on what you were voting on.

Chairman Lopez stated we approved the recommendation from Human Resources.

Chairman Lopez addressed Items 9 and 10 of the agenda:

Communication from Mayor Baines relative to an Executive Summary of Welfare issues.

Communication from employees of the Welfare Department requesting the Board review all options available and change the position of Welfare Commissioner from an elected post to an appointed/hired position.

Chairman Lopez stated this is a very sensitive issue and I want to inform you that I have been called in the last three days by a lot of people and have spent hours on the phone. My recommendation would be when Susan Lafond returns to duty that we have a special meeting just for Items 9 and 10 because I think there is a lot of information from the HR Director, the Mayor, Red Robidas who has been involved in this situation, and I think I said from the beginning that the welfare of the employees is the most important thing. I could care less about who is the Welfare Commissioner. They are employees of this City and I think we need to hear them and have a special meeting to do so before voting on Item 9.

Alderman Sysyn asked should the Welfare Commissioner remain an elected position or become a department head. Couldn't we decide that now? It has nothing to do with Susan Lafond. That is a whole other issue.

Chairman Lopez answered if the Committee desires to take up the issue of whether or not we should make that position a department head of the City, I will allow it. I think the issue that I am bringing to the Committee is that there are a lot of things that have to be brought forward.

Alderman Sysyn replied but that is Susan Lafond and that is what is going on now. We are talking about the future.

Chairman Lopez responded I agree with you that we are using Susan Lafond, but we are looking at making the Welfare Commissioner position a department head of the City. Also, we have a magnitude of problems and I want to be fair. After hearing a lot of complaints over the weekend I think it is only fair that I inform you that if we have a special meeting then maybe we can make a true decision as to whether or not to keep it as an elected position or make it a department head position. It is a very complex problem.

Alderman Sysyn replied but that is the situation as it is now. You are talking about future. Whether Susan runs this year or whoever runs for that position this year that should be left as an elected position. That is what I am saying.

Chairman Lopez stated I respect your opinion.

Alderman O'Neil stated I respect my colleague from Ward 4 but I think the pressing issue is the internal affairs of the Welfare Department. We have an obligation to the citizens of Manchester, especially those who need the services of City Welfare, to get that portion of it straightened out before we worry about whether a future Commissioner is going to be elected or appointed. I think that is what we need to address in the next month or two.

Alderman Shea stated I am not sure if putting it off would make a difference. In other words what you are saying is if we have a committee here and we want to retain that position as an elective office, I think that the fact that the present person in that position...I think that is a separate issue. I agree with Alderman Sysyn. I don't know if putting it off is going to make any difference in terms of whether people on this Committee or other Committees will change their mind because of the person presently at the head of the department. I don't know how to compare it philosophically, but you are talking about an intrinsic matter in terms of the present person but the extrinsic circumstances or the extrinsic matter has to do with who is going to be in charge. The who out there can be anyone who wants to run for that particular elected office. Intrinsically there may be difficulties involved with the present person involved with the operation of that department whether it is because of her relationship to the people or whether it is the people's relationship to her or what the internal operation is. I am in favor tonight of making a decision one way or the other.

Alderman Levasseur stated I agree with Alderman Sysyn and Alderman Shea. The reason being is there are a lot of people out there that I have talked to who are wondering if there is going to be a decision on whether it is going to be an elected



position or not. Since January is the start of the new election cycle for the following year, in February a lot of people start to make announcements and I know a few people are wondering whether they should start to worry about whether they are going to run and start their fundraisers and start getting their name out there. It is never too...you know Mayor Baines started in January. There is no reason why anybody should not want to run for this position since it is a City position, however, I would be more than willing to vote to get rid of the position all together if it was possible to do so. I think that the Welfare Department is running fine from what we hear without that person being there. At the same time, I have to ask this question. We have already had a bunch of meetings. We have already had a bunch of opportunities for Ms. Lafond to come forward and she never has. What is the delay of waiting another two weeks or a month or having a special meeting if she is not going to come forward. Do you have the authority or the power to force her to come in front of a Committee and have a full-fledged meeting? If you don't, then this is all for nothing.

Chairman Lopez stated she is supposed to come back from what I understand from Mark Hobson and her lawyer, on February 2.

Alderman Levasseur asked has she agreed to ever come in front of a Committee or the full Board.

Chairman Lopez answered the reason I am saying a special meeting just like we did for the MTA is for the employees or anybody to voice their opinion. I can tell you honestly it is a very, very serious situation. This will give an opportunity for all parties to voice their opinion and the only reason, Alderman Sysyn, that I mentioned that and it is sort of putting the cart before the horse but I, as a member of the Charter Commission, agreed to have it as an elected position. I think it is only fair that I bring things that have been told to me to the Committee. You have to hear these things from the responsible people who are taking action on a day to day basis, such as our Security Officer, the Mayor, HR and what have you. We need to have a special meeting so that people...the MTA came before our Committee and it seems like everything has died down so to speak. We didn't completely solve the problem, but it was a hot issue.

Alderman Gatsas stated certainly I express my concerns for the employees also, but I think we need to look at what the legal ramifications are here. I guess I would want to hear from the City Solicitor what point of view they are taking on whether we have the ability as a Board to go in and change anything that the Welfare Department...that department head is an elected official. Now I don't know whether that can be done or it can't be done, but there obviously has to be some sort of legal ramification if we just arbitrarily go in and start changing things in a department without that department head wanting anything to be done.

Chairman Lopez replied I don't think we are changing anything. That is not the issue at the present time. I agree with you that we should hear from the City Solicitor at the same time. As we are all aware, it is an elected position and that is the biggest problem. However, there are other serious problems that have come forward.

Alderman Gatsas stated I don't dispute those. All I am saying to you is what legal steps do we have that we can take as a Board?

Mr. Muller replied to answer your questions briefly, Alderman, there are two options. One is that it could be changed through charter amendment. Two, there are a series of statutes – RSA 48:18 through 48:21, which allow a Board to transform a Welfare Commissioner to what they call a Director of Human Services and make that an appointed position. That is basically it. There is the requirement...the statute specifically provides that the Board can actually go through a number of things. They can have a referendum. Also, by a 2/3 vote of the entire membership they can adopt the provisions of this set of statutes, which would have the same effect. It would transform it from an elected position to an appointed position. There are some issues. The statute does specify when it would take effect. Usually, I believe the statute provides that it takes effect at the end of the current term.

Alderman Gatsas stated my concern is not for what the future is. My question is what legal ramifications do we impose as a Board if we make any changes at the Welfare Department now? Forget about the future. We can control the future but we can't control the present. Is that true or not?

Mr. Muller answered I guess I will have to ask for a little clarification with regard to your question.

Alderman Gatsas replied my question is we cannot change the current status of the Welfare Department because that is an elected official so whatever we do in the future has no control or do we have a control today. Let's assume that today we say they are not doing the job because there is no direction. Can we make any changes at the Board level to effectively help the employees who are working in that department or do we have no control?

Mr. Muller responded at this point in time I would note that the Welfare Commissioner is a City department head under the Charter. You are correct. You cannot suddenly say today that this person...or suddenly make this an appointed position and that person, if that is the Board's desire, is suddenly out.

Alderman Gatsas stated let me make it a little clearer. Forgetting that we want to do anything with the Welfare Commissioner, assuming that we will leave her as an elected official, can this Board make any changes within that department forgetting about that position with other situations that we would want to change within the Welfare Department?

Mr. Muller replied that depends. Obviously there are limits on the Board's authority with regard to what they can do in individual situations within a department. I guess if the Alderman had specific issues or specific recommendations that he wanted to make, I could look at those, but as a general matter, it is difficult to say without specific facts.

Alderman Gatsas asked what position would this Board put the City in from a legal point of view if we attempted to make any of those changes.

Mr. Muller answered again without knowing the specific changes, it is hard to say.

Chairman Lopez stated just to elaborate a little bit on that, I have had conversations with Mark and I haven't had conversations with the Mayor but with the situation that is developing they are looking at different things but you are absolutely right because with an elected position there is nothing that you can do. To answer your question...

Alderman Gatsas interjected with all deference to the Mayor and Human Resources, the answer has to come from the City Solicitor's Office.

Chairman Lopez replied that is correct. That is what they are working on, the City Solicitor's Office, to find some type of language...even to protect the employees or whatever the case may be to change...to give you an example of what I am talking about let's take an A step of an employee. HR can intercede and change the language if the Board approves it that a department head will sign off in 30 days and if he doesn't sign off in 30 days it automatically becomes approved. Those things we can do if the administration of the employees is not taken care of. The big issue about making the position a department head or leaving it an elected position was Alderman Sysyn's point. My point was to have a special meeting but if you want to take these issues separately, #2 in the Executive Summary and paragraph #1 for the employees to have a viewpoint...after listening for three days, I just thought that I owed it to this Committee to let them know that if they want to have a special Committee meeting to hear the employees like we did the MTA before they made a decision on making that position a department head or leaving it an elected position, I wanted to offer you that option. If you don't want that option and you want to go the other way...

Alderman Sysyn interjected you can have a meeting with the employees after anyway, even if you decide to keep this an elected position.

Alderman Shea stated it seems to me that what we are talking about are two distinct problems. One problem is should we retain this position as an elected office. Now, that is a separate entity. We don't know who is going to run for the office. Anyone is welcome to run for that particular office. The problem seems to be not so much from that point of view. It is the one who is in charge of that office presently who has a problem with these people who are working in that department. When we talk about the MTA, we weren't talking about a department. We were talking about officials who were administering a particular area of our community that really we don't have any jurisdiction over. They are a separate entity so it is sort of different. When we talk about problems that employees had within that, that is correct. I would say that anyone who is presently involved in any office, whether it be at the Welfare Office now, is entitled to run for an elected office and I am not sure if it makes much sense for us at this stage, because of a problem with a person now if it is the right course of action to say that the problem will exist if somebody else is elected. It may change from that perspective so to me I say that we have to separate the two.

Alderman Levasseur stated I still agree that time is of the essence and you should make this decision today whether you are going to...what you are going to vote on as far as whether it should be an elected or appointed position. Before we go to that point, RSA 48:18 specifically states that if there is going to be an appointment by the Board, in other words if you are going to try to terminate this position as an elected position, it seems to me that the language is going to fall on whether the City has a strong Mayor form of government. Not specifically speaking about this Mayor, but the Mayor's position as a whole. I think that really makes a difference in how the statutes are read, Dan. I don't know if you agree with that but I don't believe that this is a strong Mayor form of government. I think it is a very strong Aldermanic Board of government with the Mayor as someone who oversees this and that will change, I believe, what your ability is to try and make this an appointed or elected position. Now, if it is a strong Mayoral form of government then you could make that position into an appointed instead of an elective, but I believe it is the other way around and I don't think that you could make that change anyway. Dan, I don't know whether you know or think or have any kind of RSA's that specifically state that Manchester has a strong Mayor form of government or if it is not a strong Mayoral form of government and is rather a strong Aldermanic form of government. I think that if you read the statutes altogether with that one in its position it changes the whole technical nature of whether we have the right to...or we would have to go to the Charter is what I am trying to say.

Mr. Muller stated off the top of my head, I do not know of a statute that defines it, however, I do know that the references have considered Manchester a strong Mayor form of government.

Alderman Vaillancourt stated I have to express agreement with Alderman Sysyn and Alderman Shea that we should divorce these two issues completely whether or not we have a good Welfare Commissioner now and I am not going to take any position on that. It is irrelevant as to whether or not the future should have the Welfare Commissioner be elected or appointed. It would be like saying, for example, maybe we get a terrible Mayor who doesn't come to work or deal with anybody well. Should we get rid of the Mayor form of government because of one individual? I think not. So, I am tending to be against letting one individual and again even before we decide whether that individual is worthy or not, make us change our whole form of government on this. I certainly would never go along with disenfranchising the voters by a 2/3 vote by the Board of Mayor and Aldermen to get rid of this. If, in fact, you do it at all, I think it should be put to the people in the form of a charter amendment. I would never vote for the Aldermen to disenfranchise the voter. Could I follow-up on Alderman Gatsas to the City Solicitor? I think what the City Solicitor was telling us was that he needs a hypothetical for him to answer the question. If I might just pull a hypothetical out of the air, let's say that the Board of Mayor and Aldermen deems, again, this is a hypothetical, that the Welfare Commissioner currently is not capable of doing the job properly and we deem that we would not want her to return to work but would want whoever the person who is in charge of it now to continue through the course of the year. Would the Board of Mayor and Aldermen have the power to do that?

Mr. Muller replied if I understand your question it is essentially whether you have the ability to remove the Welfare Commissioner.

Alderman Vaillancourt responded not remove. She would still stay there as a figurehead, which is basically as it has been for the last three months. I don't think you can answer the question. I think you need to do research.

Mr. Muller replied if that is your question, yes, I would need to do some research.

Chairman Lopez stated nobody can answer that question, believe me. The wish from the Committee as I hear it is to take it in two parts so I will take it in two parts.

Alderman Sysyn moved to keep the Welfare Commissioner an elected position. Alderman Shea duly seconded the motion. Chairman Lopez called for a vote on the motion. There being none opposed, the motion carried.

Alderman Vaillancourt moved to table the Executive Summary and the communication from the employees of the Welfare Department. Alderman O'Neil duly seconded the motion.

Alderman Gatsas asked do you think you should get an answer to Alderman Vaillancourt's hypothetical before you even decide to...

Chairman Lopez interjected I can assure you, Alderman Gatsas, that the City Solicitor and the security people and everybody else has been trying to find an answer and there is no answer. Nobody in this City can give an answer. She is an elected official. I don't want to speak for anybody, but I think they are trying to find some type of solution. Whatever that solution is is going to end up with her attorney and our City attorney and that is where it stands. I will stop there.

Alderman Levasseur stated I would like to ask the \$64,000 question because it doesn't seem that I am getting that answer and it has been a couple of months. Does this Board of Mayor and Aldermen or your Committee have any right or any authority or any sort of power to force this person to come in front of you? That is the question I want answered. If you do have that authority and she doesn't come, what do you have in your power to do about it? That is the question.

Chairman Lopez asked does the Board have subpoena power over anybody.

Mr. Muller answered I would have to look at statutes for subpoena power. Some administrative boards do. I am trying to think off the top of my head and nothing is coming to mind. I can look at the issue if the Committee would like.

Mr. Tawney stated as an elected official, your powers are extremely limited. If the position was an appointed position and a regular department head like anybody else, then the Mayor could say you will be at this meeting at such and such a time. If the person refused or did not show, that would be a breach of discipline and they could be disciplined for it. By perpetuating this position as an elected official, you have curtailed your options as to what you can do and this could reoccur with some other elected official. You have not solved the problem as I see it. That is my personal opinion.

Chairman Lopez stated I am not going to allow this discussion to continue. The Committee has asked me to set-up a special meeting for the employees and all concerned to voice their opinion. The Committee is not interesting in getting into a dialogue at this time.

Alderman Vaillancourt stated I would like to ask and I am not taking a stand one way or the other if and I am very much against executive sessions but I think this might be the kind of thing that would be done in executive session. Have you given any thought to that or has the Solicitor as to whether it would be out in the open or not?

Mr. Muller replied to the extent that you would get into things that would impugn reputations or something of that nature, the Board could move into non-public session and obviously the person whose reputation may be affected may demand that it be public but you can move into non-public session.

Alderman Shea stated I believe that the person who is going to be and I don't want to say on trial but whatever the case might be that is going to be before the Board has that right to have either a closed or an open session.

Chairman Lopez replied I think also what we will do is we will get a list to Mark Hobson of all the parties concerned who have been involved in this problem and anybody else anybody can think of and if they don't show up we can't do anything about it and we can't do anything about it.

Mr. Robinson stated just getting back to Alderman Levasseur's question, you can ask an individual to appear but if the person does not appear what happens.

Chairman Lopez replied those are all unanswered questions. We are calling a meeting primarily for the employees and anybody else concerned so they can educate the Committee and then the Committee can take any action and make a recommendation to the full Board on what that might be. We are going to need expertise from our City Solicitor and our Security Officer. We are going to need Tom Jordan here. I can go on and on. All of these people are going to have to be here. If it is in executive session then fine so be it. We have to attack the problem and where we go from there...well I think the lawyers are going to be hitting the books and everybody else is going to be hitting the books to give us some guidance.

Alderman Shea stated our vote tonight goes before the full Board of Aldermen so if they decide they want to change our vote they can do that.

Chairman Lopez replied absolutely.

Alderman Shea stated if other members of the Board feel the same way then maybe...

Chairman Lopez interjected our vote is only that we want to keep it as an elected position and we want to have a special meeting for the employees and all concerned and then this goes to Bills on Second Reading because it was referred to them too. That is the process and then we will go from there and whatever the full Board decides, it decides.

Chairman Lopez called for a vote on the motion to table the Executive Summary and the communication from the Welfare Department employees. There being none opposed, the motion carried.

Chairman Lopez addressed Item 12 of the agenda:

Communication from Michael Roche, President, United Steel Workers of America requesting an opportunity to address the committee regarding the Yarger Decker Study.

On motion of Alderman O'Neil, duly seconded by Alderman Shea, it was voted to receive and file this item.

Chairman Lopez addressed Item 13 of the agenda:

Proposed Drug and Alcohol Policy to be applied only to non-affiliated positions, but will be a subject of bargaining with affiliated employees during contract negotiations.  
(HR strongly recommends approval of proposed policy.)

Chairman Lopez stated I will let Red talk about the proposed Drug and Alcohol policy. The City Solicitor has a problem and they can't come to a conclusion so we will listen to both sides. This has been going on for months and they are at an impasse.

Mr. Robidas stated just to review some of the history very briefly, the last time we came before the Committee I believe was in June of last year. At that time, Mr. Hobson and I discussed with the Committee as well as Mr. Muller regarding the drug and alcohol policy as it would pertain to non-affiliated employees at this time. Again, it would only pertain to non-affiliated employees because of the fact that it has to be negotiated, if the City so desires to do so, at some point in time as part of the collective bargaining agreements so we cannot arbitrarily make a policy that would have an impact because it is part of the working condition. That was reinforced a few years back with the Town of Seabrook in a decision that went before the employees at a public relation employees board where they had such a policy where they were implementing a drug policy and they did it for the entire Town of Seabrook employees. At that point, the bargaining units went to the State



of New Hampshire on an appeal process and the State of New Hampshire upheld that appeal process that there was some matter of a working condition, therefore, that had to be negotiated as part of any collective bargaining agreement. When we spoke to you in June, there were several issues that remained and this is something that quite honestly we have been working on for the past year. The City, through the years, has attempted to adapt drug and alcohol policies. Dating back several years, Mr. Jordan, Connie Roy Szowski and others were involved with drafting some drug policies but none were ever enacted. Over a year ago, Mr. Hobson expressed a desire that the Committee and the Board of Mayor and Aldermen wished to pursue the fact of having a drug and alcohol policy again. When we met in June, there were several issues that were unresolved. I don't want to say in conflict, but we weren't in agreement with the City Solicitor's Office and vice versa as to what could and could not be done as far as the policy. That was based upon some of the court decisions that have transpired and we have some differing legal points of view on that. Not only from our standpoint...we didn't go out and solicit other opinions or legal documentation from other attorneys. It came about quite coincidentally. One of the ways it came about was that as we were pursuing our current medical provider services, one of the companies that came forward discussed the fact that we mentioned drug and alcohol testing, which we are required to do for the commercial driver's licenses under the Federal regulations. Their opinion and what they said they were advising their clients of was the fact that based upon court decisions, United States Supreme Court decisions and some circuit court decisions that had been rendered across the country as well as the US Supreme Court decision in a case that I am sure Mr. Muller will refer to they are recommending to their clients if they wish to have the employees in a municipal environment be susceptible to drug testing, that the job classification should be changed accordingly to reflect that they be required to operate a City vehicle. We explained to them that we weren't looking to go that liberal of a route to have all City employees tested. Of course at that point in time that was a point of discussion, but based upon some of the decisions and in consultation with the City Solicitor's Office, we very narrowly scoped down to what we felt would fall into the classification of a safety sensitive position. In explaining what our policy would be, that particular company which was Compliance Network, which has worked with the City and does the drug testing for the taxicabs both in the City and at the Airport and in speaking with their legal counsel and explaining what our position would be they felt that that would be a very solid and secure position for us to take and again we could actually go much more liberal than what we were going but we thought we would be on very safe grounds for legal challenges based upon the court decisions that had been rendered and that is the policy that they were advising their own clients to follow. Based upon that, there are some other issues and we had that discussion and that is where some of the disagreement comes. The City Solicitor's Office, as Mr. Muller will explain to you himself, does not I would say disagree...well quite honestly they don't disagree with that

position but they don't share that same position. Some of the other questions that came about at the time were whether it would be an infringement upon the Charter and this is some of the discussion that I have had with some of the officials as well who were involved in the Charter process. You will see in your packet there that there is actually some documentation that I have included and the question that was raised by the City Solicitor's Office which was whether under the penalty phase of the proposed drug and alcohol policy where it said the first offense someone would be referred to the EAP and Mr. Jordan's organization for an evaluation process. Any subsequent offense would require termination from employment with the City of Manchester. Some of the discussion that centered with the Solicitor's Office was whether or not this was a violation of the Charter. I refer to Section 2.03 that I have included in the documentation stating the powers and duties. We have taken the position where we do not feel that such language would be a violation of the City Charter and an infringement of the department head's right because of Section 2.03 (A), the Board of Mayor and Aldermen shall act as the policy making and legislative body for the City government. I also have highlighted for you Section 2.04, the power to delegate that authority that the Board of Mayor and Aldermen may delegate such of its powers as may be lawfully delegated to authorities, boards, commissions, departments or officers and the back section of that, Section 3.04 under the authority A is that the department head, shall be the chief administrative officer of the department subject to departmental policies, the supervisory authority of the Mayor as to the administration and policy directives of the Board of Aldermen or policies established by boards and commissions in accordance with Section 2.04 of this Charter. I believe and I cannot speak for Mr. Muller, but I believe they feel that that is in conflict with 3.04(B) with exclusive personnel responsibility. That may have been the intent of the Charter Commission but that is not in reality what the City Charter says. If I may summarize some of our conversations, the Solicitor's Office has taken the position that that particular portion of the proposed policy would be in conflict with 3.04, subsection B, the exclusive personnel responsibility. In our discussions and we have had several discussions on this matter, we feel that it is the role of the Board of Mayor and Aldermen to dictate and set policy for all City departments and it is the role of department heads as managers as any manager in the City to implement the Board of Mayor and Aldermen's rules and regulations and, therefore, they are not forfeiting any of their rights as the Board of Mayor and Aldermen to set policy for the City in general. That is one point where we have a disagreement on whether this would or would not conflict with the Charter as currently written. When we put together this particular policy, again, we have listed and this is based upon if I may distribute a quick document...as we have been amending our policy, the drug and alcohol policy, it has been based upon this particular document, which was supplied by Compliance Network. In one of the cases a major decision was the US Supreme Court decision of Chandler, which Mr. Muller will refer to. In essence, to

summise that was a State of Georgia case where they were requiring certain elected officials to submit to drug testing prior to being able to serve. The US Supreme Court struck down that particular policy. If you look at the first page in the second column, about 70% down, and this is what we are basing the policy on, the court said that the city's desire to hire employees who have been hired is essentially an effort to provide the same public confidence in the City as Georgia sought in its attempt to drug test candidates for public office in Chandler. The city in quotation has not identified any jobs involving the type of high-risk safety sensitive tasks with potential for immediate injury to others that would justify the need for testing. It continues to say, "as such the court rejected the city's public integrity sensitive rationale for its drug testing policy and, therefore, found the entire policy to be in violation of that forth amendment." What they have gone on to say in the second portion on the second page about 25% of the way down the first column is "government employers should prepare a list of all positions that are considered "safety sensitive", closely document the job duties and responsibilities that render the job safety sensitive and make such a list an integral part of the drug free workplace policy not only for purposes of post accident and random testing, but also for pre-employment testing. Only those positions whose duties can be classified as safety sensitive may be tested as part of the pre-employment drug testing policy." The final paragraph immediately underneath that states, "as noted in previous articles, safety sensitive employees are employees who "discharge duties fraught with risk of injuries to others that even a momentary lapse of attention can have disastrous consequences" or whose duties have the potential for immediate injury to others." Again, in conversation, this is what Compliance Network was recommending to their clients based upon this that we should come up with some type of designated list as safety sensitive. They also referred to a case that took place in Michigan involving a municipality. In the municipality, it was very similar to what the policy would be that we are proposing and that is that those above and beyond the safety sensitive classification aspect, those who would be operating a City vehicle or are assigned a City vehicle or operate a City vehicle as a major portion of their duties and we are not talking about someone who would intimately operate a vehicle every 30 days, etc. but we are talking about people who are actually assigned a City vehicle and/or that is a major portion of their job related duties as safety sensitive. Once again, they refer to a case in Michigan where that was a similar policy for a municipality which was challenged and upheld for the benefit of the City that such a policy was a plausible policy in the fact, referring once again that discharged duties fraught with the risk of injury to others that even a momentary lapse of attention can have disastrous consequences or whose duties have potential for immediate injury to others. We have taken the position that anyone operating a City vehicle, if they are impaired, a momentary lapse can have a consequence of disastrous injuries to others. Quite honestly, they can become involved in an accident whether or not they have another City employee with them, they are not

carriers as has been in some of the arguments in many of the court cases and in that Michigan case, as well, there was not the fact that they would be carriers of other City employees. The court ruled in that particular case that they could at some time be carrying another City employee but regardless of whether they had another City employee in the vehicle with them, the presence of having a vehicle under their control and having someone impaired presented a potential danger to others who are on the roadway or pedestrians at the time. With all of those recommendations in mind, we then proposed a list of classifications, which is included as part of the submitted policy for review; a list of classifications of specifically the types of positions that would be tested under the policy. Again, this does not apply as a random selection to each and every employee who applied for a City position though that had been the City's position in the past and that is the initial point where we began because there is a different case in the State of Florida versus the City of Hollywood where an accountant came in and in essence was required to submit to a policy. He challenged that in court and the court said that was unreasonable because he was not in a safety sensitive position. Therefore, we are not going with a blanket coverage. We are specifically sticking with the list of classifications that are proposed in Addendum A. Some of these positions, when you look at the initial positions themselves, would generally fall under the collective bargaining agreements and some may ask why they are in these particular positions. As an example, police and firefighters are classified as collective bargaining agreements and I think this is at a point where in speaking with Mr. Hodgen in the Solicitor's Office that we do agree on. That is the fact that there is no standing within a probationary period to union representation, therefore, the City would be well within its rights for a position, i.e. police officer, firefighter, to test these individuals as a pre-employment and during their probationary period as far as safety sensitive positions. Those are some of the positions you may see within there. The remainder of the policy is based again on the fact that, if I may call the Committee's attention, Mr. Chairman there is one minor modification that I would like to make to the policy. We attempted to put it in there as a point of clarification, but I believe we would like to omit it because it would be more confusing than it appeared to be at the time. That would be under the first page of the drug and alcohol policy itself under definitions, which would be the letter D. We would like to omit that from the policy and have the remainder of the policy remains intact.

Alderman Vaillancourt asked eliminate it completely.

Mr. Robidas answered just letter D.

Mr. Muller stated I will try to keep it very brief. First, just with regard to the omission, to the extent that the Committee does adopt the policy, what constitutes a positive test should be defined so that everyone is aware. With regard to the

precise level, to an extent that is a policy decision. I would just urge the Board that it may be challenged if it is too low or if it is seen as not related to impairment or anything else. It may be challenged as being arbitrary but outside of that I would recommend to the Committee that there be some definition as to what constitutes a positive alcohol test. Just from a broad standpoint, there are a number of issues, some of which are minor at least in the overall scope that should be taken care of before this should be adopted, but in a more general sense, the Board and the Committee should be aware that first and foremost the City, unlike private employers...I know there has been some reference to materials from private employers and the references to private employers are irrelevant. The City, as a public entity, unlike a private employer, say in very limited situations is subject to the constitutional limitations set forth in the fourth amendment of the United States Constitution and in the State Constitution, Article I, Part 19. As such, this policy to the extent it provides for drug testing...drug testing is a search for purposes of the constitution and has to satisfy those requirements. Here we have basically testing for non-law enforcement purposes. As such, at a minimum...just to clarify the NH Supreme Court has not spoken to this issue as yet although they do have some case law, which may bear on this to some degree. At the United States Supreme Court level, the United States Supreme Court has said that to sustain this, the City must have a special need. As a general matter, they have looked for a demonstrated drug problem. To my knowledge, that has not been presented in this case. There are some cases that do focus on safety sensitive. That being said, however, the court has generally noted that it does look for a demonstrated drug problem to bolster any argument to support and let me clarify this to an extent. When we talk about special needs we are talking about those tests and in this case it would be the pre-employment, the random and the post accident where there is no individualized suspicion of wrong doing. The reasonable suspicion testing does possess that. I do have some issues as it is currently drafted with some internal conflicts, but as a general policy matter that probably would be sustained under the Constitution so most of my comments in terms of the Constitutionality will go to the various random tests. The basic requirements are 1) you have a compelling interest; 2) that the testing or that the means that you use essentially you cannot get them through the basic individualized suspicion or that your interest would be jeopardized if you had to rely on individualized suspicion. As I said here, I am not aware of any demonstrated drug problem. I am not particularly clear as to why the City at this point in time cannot protect its interest through an individualized suspicion regime. As such, the position of our office is that we would not recommend adopting this policy to the extent that it provides for random testing. We simply don't think there are grounds. Turning to the safety sensitive, even if we focus on that it is the position of our office that we do have some issues with regard to the classification of people who basically are included within the class simply because they operate a City vehicle. I am not sure if this...one, I believe that this presents

some equal protection issues. It appears to be based on some notion of liability as opposed to actual safety sensitive. Anyone who is operating a vehicle acting within the scope of their employment would render the City liable whether they are driving a City vehicle or not. Secondly, under some of the case law, particularly *State vs. Koppel*, which deals with DWI checkpoints, this is taken to its logical conclusion essentially the argument here is that because you merely drive an automobile that you are in a safety sensitive position. If you extended that, it would basically allow anyone to be tested merely on the fact that they drive a vehicle. I simply don't think that meets the test. I would note that with regard to the Federal regulations in terms of the people who are covered under CDL or are considered safety sensitive, that the definitions include vehicles that transport, I believe, for example 16 people or more that are exceptionally large, with a certain amount of tonnage. They do not extend all the ways and, therefore, the position of our office as to the extent that this focuses on people who would be included merely because they drive a City vehicle is that that also not be adopted. Finally, there is the issue of the disciplinary action. Mr. Robidas did accurately reflect the concern in Section 3.04(B) dealing with the exclusive personnel authority, which has been granted to the department heads. Effectively, by specifying a discipline while the Board clearly has the authority to adopt a policy that defines what behavior is acceptable or not acceptable by focusing and limiting the discretion it clearly undermines that provision. Under this rationale, if it can be done in this case it can be done with regard to any other misconduct. Essentially, it transforms the disciplinary decisions into a managerial function, which does not appear to be consistent with the language that is in the Charter, specifically, Section 3.04. As I said, there are other issues such as the fact that accident is defined in some section of the revised statutes, however, it is not specified. There are other things of that nature that I could go on with, Mr. Chairman, but I will limit it to those major points.

Alderman Vaillancourt stated I wish to express special gratitude to the City Solicitor's Office for the comments. I had expected that I would be a 13-1 minority on this issue, but perhaps not after this. As someone who believes in individual freedom as guaranteed by the Constitution of the State of New Hampshire and the United States, I will never ever accept Section 4 which calls for random testing and I am very grateful that the City Solicitor's Office agrees with me on that point. I asked earlier whether Mr. Hobson was here because I take special offense and wanted to express it while he was here, with his line "there are times when policies need to be enacted for the good of the organization even when the policy raises concerns." To me, that is saying that we can do something even if it is unconstitutional and I don't think we can ever do that. I am kind of bending over backwards to say that I will accept Sections 1, 2, 3 and 5 of this and would be happy to go along with that. I do not share the City Solicitor's concerns, and again I am not a lawyer, about Section 5 because I read the Charter Section 2.03 to

supercede Section 3.04 and I think that the Aldermen do, in fact, have the power to delegate and set policy so I don't think that would be a problem. As far as the list of people covered or not, I have some problems with that. I noticed the Airport Director is here, the Public Health Director is here but not the Human Resources Director, himself. I am willing to bend over backwards and even accept that. If I could get this passed without Section 4, I would vote for it. Other than that, I will probably be the only one to vote against it.

Alderman O'Neil asked is it possible that all of the parties involved can get together and brings us back one policy. That is a sad...you are shaking your head no. That is sad that City staff cannot get together and bring us a policy that they all agree on. I am very disappointed to hear that. We are going to sit here for a half hour, 45 minutes or an hour and beat this up and we have heard Mr. Robidas' comments and Atty. Muller's comments. It is sad that we couldn't have been brought a policy that all parties in the City, you know the EAP has some questions and concerns about it.

Chairman Lopez stated this has been going on for some time.

Alderman O'Neil replied I understand that.

Chairman Lopez responded they are at an impasse.

Alderman O'Neil asked how can we have an impasse when all of them work for the City of Manchester.

Chairman Lopez answered because they have different philosophies. We have to make a decision on what we want them to do.

Alderman Levasseur stated I want to commend the City Solicitor for his work on this subject. Obviously it was a very thorough analysis and I wonder why we have the parking meter supervisor on this list. Who wants to do that job anyway? Anyway, I look at this and I just graduated from law school and one of the most conservative courts this country has ever seen has totally denied this type of action. The only time they ever made a serious finding for the city was in the case of when somebody was driving the subway. In other words, New York City, the guy is going to actually drive the subway that carries hundreds and hundreds of people. Those are specific needs that are of immediate threat to people's health, safety and welfare. I see the list that is put together here and I see some of the people on here – Building Program Supervisor, Water Read Technician, Meter Reader II, Watershed Forester. These are not positions that are of immediate threat to anybody's harm and driving a car like the City Solicitor said does not automatically...I know that driving a car could be used as a dangerous weapon but

we are talking about bus drivers here, mechanics who work on planes before they are able to fly. Those kinds of positions I think would be upheld, but I look at this list and I say to myself I think like Mr. O'Neil said these people should have some input on this and I would just imagine if they were going instead right now instead of going for the non-affiliated employees what we would have for representation here in this room right now if they were going for the union people because the union people would have their attorneys here and their representatives really slamming this whole process down so I kind of don't like the idea of it being...it is for the non-affiliated now and then we are going to try and negotiate it into those contracts later. I would like to see it the other way around. It is usually the union who leads the way in policy because they fight a lot harder for their employees.

Chairman Lopez asked can you explain that, Red, in reference to the list of people you have here.

Mr. Robidas answered this list of people was compiled because of either their job classification and that either what they did would actually be considered a safety sensitive position and I don't think we have had much disagreement with that. I have reviewed the list with Mr. Muller. Where there has been some discrepancy is those who appear on this because of the fact that they are assigned a City vehicle and/or they operate a City vehicle as part of their regular tour of duty. Again, this is based upon, as Alderman Levasseur can relate to, when you speak to counsel and again we didn't go out to solicit any legal opinion, but a legal opinion was offered to us from a source that the City utilizes itself as a resource for drug testing. Their own attorney whose specialty is drug testing and laws felt that this policy that is being proposed was a sound policy and a policy that they are recommending to their own clients. Understanding the fact that it is a municipality, they felt that we would be on very solid ground with such a policy. The policy was enacted because we are trying to avoid having a catastrophic injury taking place prior to some type of policy being enacted by the City. I don't think there is any dispute with the fact that regardless if anyone was operating a vehicle whether we had this policy or not that the City would be liable, however, I think it would be rather negligent on the City's part quite honestly if we didn't have a policy in place and we had to wait until some tragedy occurred and then people came forward and said we don't have such a policy. Then all of the sudden we are playing a Band-Aid approach and we are being reactive versus taking a proactive role.

Alderman Levasseur replied I understand your position on this, Mr. Robidas, and I agree that some policy should be worked out but it really is going to have a very difficult time passing constitutional muster, especially for some of the people you have listed on this. I mean if the constitution and the court cases by a very conservative court has really protected these people's rights in this situation and



you must remember that as a municipality, people who work for the city and work for government have more rights than private employees do.

Mr. Robidas stated again understanding the fact that this particular company who provided us with this information and kind of semi-quasi reviewed the policy with us, these are the same people who deal with the Federal government, they do the FAA, they do municipalities, they do State government and they do United States government so they are very familiar with the drug policies and how they feel the courts would look at it. Again, that is their recommendation is that if any City, any of their clients in the government sector wishes to test that they actually reflected in their specifications that they be required to operate a vehicle and they feel that it is a very solid policy and it would withstand the muster. As most people understand it, you can have attorneys with different points of view. Atty. Muller can bring in 50 people to say one thing and I can bring in 50 others to say something else.

Chairman Lopez stated and I think with all due respect I think that is what Alderman O'Neil mentioned and it is a wonder that people can't get together too but we need to help the individuals who are hiring employees and we need to help the department heads by making a policy. Alderman Vaillancourt made a very good point to a degree about the at random. He would not vote for this if the at random was still in there. If this policy is to move forward so they can start working this, and it is like anything else, any other policy that we have developed, maybe two months down the road we might come along and want to amend this policy because of the situation. Those things happen. Those are all administrative things that develop during the process but right now they don't have a policy that they can work with so what do you do.

Alderman Shea moved to approve the drug and alcohol policy without Item 4, Random Testing. Alderman Vaillancourt duly seconded the motion.

Alderman O'Neil stated I am disappointed that City staff people can't get together to work out an agreement. We wonder why we have problems in City government. I come from an industry that uses drug testing very regularly in the private construction industry. I have been involved in situations where it was pre-employment as well as random. I have been involved with other companies where there was no pre-employment but if you were involved in an accident and you cut your finger or fell off a ladder that there was mandatory drug testing. I am in a current situation where all employees of the companies on the site are required, for pre-employment, but there is no random. I guess what I don't understand is why isn't it a condition of employment for all City employees. Why can't we have a standard policy? I don't understand that. All City employees should be treated the same.

Mr. Tawney stated as far as the pre-employment physical, yes you can because they are not part of the bargaining unit until they complete the probationary period. As a condition of employment you could do that. I personally had worked with the County Attorney in Sullivan County and developed a pre-employment and for cause drug testing policy that he felt comfortable with that the county imposed on all of its employees.

Alderman O'Neil asked so we are going to pass a policy that may not be 100% correct, which may not be 100% legal just for the sake of passing a policy. That doesn't make any sense to me. This thing needs work and we should lock the parties in a room and say work it out.

Mr. Robidas stated as recently as last year in the State of Florida, the City of Hollywood, there was a court decision that banned municipalities from testing based upon conditional job offers as a blanket coverage. You had to be very specific into the safety sensitive type positions, i.e. clerical staff would not qualify based on the court decision to be tested. Anyone coming in to work within the Finance Department as an example, HR Department or any other department, most departments within this particular confine wouldn't qualify, even those who would handle finances and that was a particular case. They wanted to preserve the integrity of the finance to that particular community and they required it and the court struck that down saying you had to limit it to the safety sensitive type positions. I don't think Mr. Muller and I disagree on that, that is why we had the list scoped down. We cannot implement a blanket wide coverage for everyone coming through the door.

Alderman O'Neil asked how are towns and cities in New Hampshire listed here in pre-employment. For all employees it says.

Mr. Robidas answered that is correct. That is their policy, but again this is based upon a court decision, which was rendered in April of 2000. That is why we have amended our policy accordingly and we discussed that and I don't think we are in disagreement over that.

Alderman Levasseur stated if you look at the case you have been handed out and read the bold lines on the right hand side. The court rejected the city's public integrity sensitive rationale for its drug testing policy and, therefore, found the entire policy to be in violation of the fourth and fourteenth amendments. Basically what they are saying here folks is you are trying to put in a public integrity sensitive situation here. Now what you are doing by passing this policy right now is you are going to open yourself up to lawsuits and before you say anything there is nothing better for an attorney than to go out and be able to sue on a

constitutional basis because all of the attorney fees come back to that attorney. Attorneys love to sue cities for these kind of constitutional claims. The first person, the meter reader gets into a car accident or has to be tested and goes to court, he is going to be...this is not a policy issue passed today. Like Alderman O'Neil said you have a policy that is going to affect all of you employees. How can you possibly pass a policy that affects only non-affiliated employees and not the rest of the City? How can it be that one person is going to be subject to these rules and the other people who work for a union dominated Water Works Department or wherever these unions are can't have this policy? It makes no sense.

Chairman Lopez stated let's stop right there and answer that question.

Mr. Robidas replied the reason we can't implement across the board is specifically because the Town of Seabrook had a case, Public Employees Labor Relations Board where they attempted to pass it simultaneously affecting all employees immediately and through the Public Employees Labor Relation Board they ruled that that is a collective bargaining issue. We are not saying that if the City so chose to make that part of the collective bargaining agreement they couldn't chose to do so, however, we could just not arbitrarily impose this policy on any collective bargaining agreement. We would be in violation.

Alderman Levasseur responded I would instead like to see the next time you have a collective bargaining for a union contract to try to get this through them. See if it happens. See if they agree to it and if they do then you have some sort of...you know you have something in front of you. You have people who are going to fight for that union a lot harder and if you pass it through them it makes a lot more sense to jump it on the non-affiliated employees.

Mr. Robidas replied quite honestly we have one collective bargaining agreement, which has some language...

Chairman Lopez interjected you can see how hot this issue is.

Alderman Levasseur stated it is very important that you understand how narrowly tailored this must be to people who are in emergency or sensitive positions that affect public safety.

Chairman Lopez stated no matter what policy you have in this City they are going to sue you.

Mr. Robidas stated I would like to respond to Alderman Levasseur's question about the collective bargaining agreement. There is one collective bargaining

agreement which was recently signed with the firefighters and it calls for drug testing because they are exempt under State statute under the CDL because of the fact that they are firefighters operating fire equipment so they don't fall under the category of being required under the Federal regulations. Their collective bargaining agreement says that if they cannot come up with their own drug testing policy agreeable to both themselves and the City by the first of July in 2001 they will revert to the City's drug policy. At this point in time, we don't have one in effect.

Alderman Levasseur asked would you agree though, Sir, that that is a very highly sensitive duty that they are performing. They are driving firetrucks and saving people's lives.

Mr. Hodgen stated Mr. Robidas is correct. There is language in the current firefighter's agreement, which says that we will attempt to negotiate language with regard to drug testing for firefighters. I sort of am currently involved in those negotiations. They have been on hiatus for a couple of months because the union's attorney had heart surgery and we postponed the sessions and we haven't rescheduled them. The only complaint I have with what Mr. Robidas told you is that if we cannot resolve it through negotiations before July 2001, then we will go to arbitration over it to try to resolve the matter. We attempted to negotiate language that said that they would automatically be covered under the City's commercial driver's license drug testing policy, but we were not able to accomplish that. We are trying to negotiate a policy with the firefighters. I think we will, one way or another, negotiate one with them. They have made proposals to us. We have made proposals to them. They do not match this proposal that is before you tonight at all. I don't guess as to how the firefighters would react to that one.

Alderman Gatsas asked what is the...for any employee in the City of Manchester whether they are affiliated or non-affiliated, what is the probation period.

Mr. Robidas answered it depends. If they are Police or Fire, it is one year. The others are six months.

Alderman Gatsas asked so at no time under pre-employment conditions does that employee step into a collective bargaining agreement from day one. So we can't obviously test current employees in collective bargaining agreements because of their bargaining agreements, however, we can impose as a pre-employment qualification to test every employee. Absolutely we can. You can shake your head all you want. You certainly can say no. We can make that as part of the job description for any job as a pre-employment condition of employment.

Mr. Hodgen stated I think what Mr. Robidas has been saying and what Mr. Muller has been saying is that in those cases we would have constitutional problems to contend with. We could do it, but if we were challenged I don't think either one of these gentlemen think we have a good case and as the Alderman said if it were a civil rights suit then we would subject the City to paying the opposition's legal bills.

Alderman Gatsas stated let us understand this. Obviously if tomorrow an employee driving a motor vehicle for the City of Manchester gets into an accident and kills somebody and has a history of drug abuse that the City obviously at that point is going to be in a negligent position for not having tested that employee and allowing him to operate a vehicle that endangered somebody's life. Now if that is not a court case, I don't know what is and I think the damages just from the sake of whose ever life they may have taken whether it was their own or somebody elses is certainly a horrific position. So let's not talk...because we could sit here for the next 50 years worrying about every piece of documentation. I notice that Nashua is not mentioned in either place. Have we looked at Nashua's or the State of New Hampshire's position?

Mr. Robidas replied yes. The State of New Hampshire primarily goes under the Federal regulations. They do not have anyone who does not qualify under the Federal regulations. I believe that is also the case with the City of Concord and if I am not mistaken I believe the City of Nashua likewise.

Alderman Gatsas asked why are they under Federal and we are not looking at those.

Mr. Robidas answered well we are under Federal but those are Federal guidelines. Those are people who hold commercial driver's licenses so they are not as impacted by this particular policy.

Alderman Gatsas asked so none of those cities that you talked about or the State has a prequalification of drug testing for employment.

Mr. Robidas answered that is correct unless they fall under the Federal guidelines. That is my understanding.

Alderman Gatsas asked is that your understanding or are you sure and you have their policies in hand.

Mr. Robidas answered the only one I am not positive of, Alderman, is the City of Nashua. The State of New Hampshire I know that is their position as well as the City of Concord.

Alderman Gatsas asked have you looked at their policies.

Mr. Robidas answered that is correct. I do have copies of their policies.

Alderman Vaillancourt stated I am looking at your letter dated December 8, 2000. It seems to me in this letter the only one that calls for random testing is BAE Systems. I can with a stretch, my civil libertarian position notwithstanding, say that there is reasonable cause somebody could be tested. After an accident perhaps and maybe for pre-employment but am I wrong in saying that AT&T, Merrimack, Seabrook, Fort Worth, Scottsdale, Orlando and Decatur, none of them have random testing. I hope I read the letter accurately.

Mr. Robidas replied you did read it accurately. Just to follow-up, BAE Systems and AT&T Broadband would not be applicable because we are a municipal agency. That was put together to show that we are not out of step with what is going on as a whole. The random testing is consistent with the Federal guidelines and those are the percentages that are used in the Federal guidelines on the commercial driver's licenses. They do a random testing. They do the 50% of the pool.

Alderman Vaillancourt stated but none of these towns you mentioned have random testing as part of their program.

Mr. Robidas replied that is correct.

Alderman Vaillancourt stated so it would be easier to defend if we got rid of that.

Chairman Lopez stated I allowed the presentation because I think it was very important for the Committee to really get the gist of what is going on here. A motion is on the table and I want to clarify that definition D was asked to be deleted and the motion, as long as Item 4 is deleted, is to approve the drug and alcohol policy.

Alderman Levasseur asked without D can there still be a policy in effect. If you don't have that in there, what replaces it or should there be a replacement.

Mr. Robidas stated that is not to say, as Alderman Lopez said, that we may not come back and make some minor modifications. I don't disagree with Atty. Muller about the fact that we probably should have some type of definitive definition that is there and we have a specific situation that occurred with the CDL in this City where a gentleman showed positive under the technical sense of the term but was taking cough syrup and did legitimately have a cold and we are

trying to set that standard that we don't fall into that trap and that is why the 0.01 was introduced as a definition but I don't disagree with Atty. Muller. That is the reason I asked for that particular segment to be pulled off. I think we should have a standard, but I think we just need to work on the definition a little bit more.

Alderman Levasseur asked would it be prudent to table this until you actually have that number put in there. You are putting a policy together without any kind of a number in there.

Chairman Lopez answered I don't think it is necessary to have the number in there according to the testimony that was just given. That is the impasse between, I think, Atty. Muller if I may ask you a question are you satisfied that it has been deleted?

Mr. Muller asked what was the question again.

Chairman Lopez answered on deleting D.

Mr. Muller replied as I stated beforehand, a definition for a positive alcohol level should be in the policy otherwise you cannot advise the employees as to what the acceptable limit will be. You need a definition in there.

Chairman Lopez asked are you saying that the drug and alcohol policy cannot go forward with that particular item with all of the other things that they have to do.

Mr. Muller answered if you implemented the policy without any notice to the effected people as to what restrictions are placed on them, yes; I would say that is a problem. Basically that is a fatal problem.

Alderman O'Neil moved to table this item. Alderman Sysyn duly seconded the motion. Chairman Lopez called for a vote on the motion. There being none opposed, the motion carried.

Alderman O'Neil stated first of all, I have a question about post accidents. Why isn't an accident by an employee falling off a ladder...it only references loss of human life of if they are involved in a traffic accident if I read it right? Falling off a ladder, why isn't there testing for that?

Mr. Robidas replied in this one we are dealing specifically with the safety sensitive issues and not the fact of a workman's compensation issue.

Alderman O'Neil asked what about if a guy falls off a firetruck. That is not referenced in here.

Mr. Robidas answered that is correct.

Alderman O'Neil asked why not.

Mr. Robidas answered in that particular instance as well, you would have an individual and I don't want to play semantics but you would be having an individual who is under a collective bargaining agreement so it would really be a mute point. We are specifically dealing with safety sensitive issues and the fact that they would be impaired. Correct me if I am wrong, Mr. Muller but I believe we are not in a position to legislate against someone causing harm against himself, correct? It is only to other individuals if we go to the court decisions as well. We cannot present a policy...

Alderman O'Neil interjected if I fall off a ladder and land on Alderman Gatsas...I am intoxicated or drug impaired and I walk into a ditch, an excavation and I land on somebody in the ditch. I mean either we are going to have a policy or we are not. We are going to have a policy that is going to be for all employees. It is going to cover all situations. This is...I am trying to think of a good word or phrase to use other than what I have stuck in my mind. This really isn't a good policy, folks. It needs work. I am not saying you are not on the right track but it needs work. God, I can't believe that we can't get City staff to sit down in the same room, lock the door and work this out. I am very disappointed to hear that. Very disappointed.

Chairman Lopez stated we can argue about this all night. We did table it. Just a comment that I want to make here. There is no drug policy in the City. I think Alderman Gatsas brought up a very good point. If something develops out there, we don't have a policy. I think the big issue that I have is we don't have a policy no matter what. Nothing is perfect in this world. If we are looking for something perfect in a policy, this will never become a policy.

Alderman O'Neil stated I didn't get my question about personal injury answered and secondly I can't believe that there isn't a city somewhere in this country that has a policy that would stand-up. Any time we have been involved in anything, we have always found a community that has had a policy that stands up to Federal law and hopefully would stand up to state law in New Hampshire. I can't believe that state law in New Hampshire would be that much different from state law in Vermont or in New York.

Mr. Robidas replied what has made this very difficult, Alderman O'Neil, is the fact that we are a municipality and government agency. Several of the court's decisions make it very restrictive as to what we can and cannot do that are not



applicable to the private sector. If we were the private sector, we would be able to have a much broader brush.

Alderman O'Neil responded that is something that I did learn tonight and I appreciate that but I can't believe the City of Boston, the City of Providence or the City of Worcester does not have a policy. City of Portland, Maine? We seem to get ideas and laws from the City of Portland, Maine pretty regularly here in Manchester. I can't believe that somewhere, someplace, somebody doesn't have a policy that would meet...

Chairman Lopez stated I am going to allow one more question and then we are going to end this.

Alderman Levasseur stated the one thing I want to ask the City Solicitor is about number 3, post accident. If you were to test an employee after an accident, that resulted would then be discoverable by the person who would be suing you. I don't know, Dan, what you think of that but I think that probably puts the City in a weaker position since we would probably not have the burden of proof going into court, they would, and you would be giving them their ammunition so what do you think of that, Dan?

Mr. Muller replied if there was a test, it would be discoverable.

Alderman Levasseur stated that is very important to know because if that ever did happen you would then be testing this person and if the result was whatever... 1.2 that would be discoverable by the other side and they would use that to slam you and get all kinds of money.

Alderman Gatsas stated obviously this is very sensitive to me because in my world, the real world outside of this one we deal with an awful lot of employees. In City life, you are asking somebody to write policy and then you are asking somebody to defend policy that they don't agree with. So, the policy that you have here is certainly something that the City Solicitor has to be comfortable with supporting in doing the legal battles. However, we can sit here until the cows come home and unless we can make a very simple policy condition of pre-employment, you know it should be a very simple task. It should not be something that we are talking about at great length. It could be a very simple thing that we put in that is two or three lines that talks about pre-employment. Now I understand that we are a municipality and that could open the door to lawsuits but I say let's find that out and let's at least put it into effect because we sit here and we talk about hiring safety people to reduce worker's compensation injuries but we are not looking to find out if somebody has a problem before they come into employment. That doesn't make any sense. This is a very in-depth

drug and alcohol policy and there is no question that maybe something should be there, but maybe we should reclassify that and just get a pre-employment policy in effect that at least protects us or protects the employees and protects whoever is in the environment outside. As Alderman O'Neil said, I am up on a ladder changing a lightbulb in City Hall and hit somebody on the second level. That doesn't mean that is not a safety issue. We should simplify this and say it is a pre-employment schedule. Again, the City pays the cost of pre-employment testing. There are companies out there that pay the pre-employment cost for testing if you pass. If you fail, that should be your problem and not the City's picking up that bill.

Mr. Robidas stated if that is the wish of the Committee we can put that in there, but I would just caution you to the fact that other municipalities who have done so have been challenged and have lost such a policy in court. Again, there was a US Supreme Court decision.

Chairman Lopez stated I think we have had enough conversation about it. It has been tabled. Work it out and get Tom Clark and all of the lawyers together and come back with something. Until we have a policy, then whatever happens, happens.

Alderman O'Neil asked why don't they at least do this. It seems that there is generally agreement on the pre-employment side of this if anything. Why can't they come back with a policy that just addresses that and we talked about working out the other things, maybe work out some of the other things but at least we start a policy in the City of Manchester.

Mr. Muller stated as Mr. Robidas has stated the issue becomes...we can try to draft a pre-employment policy in general but the problem becomes and we both agree that under the existing laws of the land that drug testing of all employees under that scenario could be problematic. Now, if the Committee wants us to do what we think is permissible, we can do that but with regard to the extent that a request for across the board testing, that could be problematic.

Alderman Vaillancourt stated I am not even sure how effective it is. Pre-employment alcohol testing, you don't drink something for eight hours before you go get your test. What good is that going to do? Pre-employment drug testing, I suppose if somebody is stupid enough to come for their employment test when they smoked a joint a week before. They certainly shouldn't be hired but I don't think you are going to hire people that stupid.

Mr. Robidas replied we have had those, Alderman.

Alderman Vaillancourt stated certainly with alcohol it is not going to do any good. I think it is out of your system in like eight or ten hours.

Chairman Lopez replied I think I have heard enough. Make sure that when you come back here if you have to change something that the City Solicitor is comfortable in defending. Let's do it and let's get a drug policy.

Alderman O'Neil stated can I ask and this is only for me if they want to send it to others that is fine, but I want to know the policies of Portland, Maine; Burlington, Vermont; Boston, Worcester and Providence, Rhode Island.

Mr. Robidas asked is it the wish of the Committee that they want us to instill a pre-employment section.

Chairman Lopez answered I think the City attorney, if I heard him correctly...I mean the Committee can do it if they want to but I think he was advising them not to. Am I correct?

Mr. Muller replied to the extent that the Committee is looking to put in a broader, across the board requirement. As both myself and Mr. Robidas have indicated, we are in agreement on this point that it presents problems. We can attempt to draft something that limits it to certain classes that would fall within the special needs category, but that is basically all we can offer.

Chairman Lopez stated well continue moving on in the direction that we have guided you, if we have guided you.

Chairman Lopez addressed Item 14 of the agenda:

Ordinance Amendment:

"Amending Sections 33.024, 33.025 and 33.026 (Manager, Airport Operations and Facilities) of the Code of Ordinances of the City of Manchester."

On motion of Alderman O'Neil, duly seconded by Alderman Shea, it was voted that the ordinance amendment be approved and referred to the Committee on Bills on Second Reading.

Chairman Lopez addressed Item 15 of the agenda:

Ordinance Amendment:

"Amending Sections 33.024, 33.025 and 33.026 (Welfare Supervisor) of the Code of Ordinances of the City of Manchester."

Mr. Tawney stated this was a housekeeping issue. We did a reorganization and created the Deputy Welfare Commissioner position and never...this just establishes this position.

On motion of Alderman O'Neil, duly seconded by Alderman Vaillancourt, it was voted that the ordinance amendment be approved and referred to the Committee on Bills on Second Reading.

Chairman Lopez addressed Item 16 of the agenda:

Ordinance Amendment:

"Amending Section 33.048 (Advancements with Pay Range) of the Code of Ordinances of the City of Manchester."

Alderman O'Neil asked could somebody simplify what this means for me.

Mr. Tawney answered the wording was...we do performance evaluations on an annual basis and we wanted to instill that in here. It was dropped out in error.

Alderman O'Neil asked so it is a housekeeping thing.

Mr. Tawney answered yes.

On motion of Alderman O'Neil, duly seconded by Alderman Vaillancourt, it was voted that the ordinance amendment be approved and referred to the Committee on Bills on Second Reading.

Chairman Lopez addressed Items 17 and 18 of the agenda:

17. Ordinance Amendment:

"Amending 33.076 (Special Leave) of the Code of Ordinances of the City of Manchester."

Providing for amendment to Section D as follows:

"In addition to other leaves authorized by this subchapter, a department head and/or the Human Resources Director with the approval of the Mayor, may authorize an employee to be placed on administrative leave with or without pay in the

interest of the City, for a period or periods not to exceed twenty work days in any calendar year."

18. Ordinance Amendment:

"Amending Section 33.076 (Special Leave) of the Code of Ordinances of the City of Manchester."

Providing for amendment to Section D as follows:

"The Human Resources Director may recommend to the Mayor for his approval up to twenty (20) days of administrative leave, for employees, for purposes that are beneficial to the City. Such leave is chargeable to the employee's department."

Chairman Lopez stated the Clerk has information to pass out on Items 17 and 18. I would ask that these two items be tabled for the simple reason that there has to be some coordination and it is a question of whether it is in violation of the City Charter.

On motion of Alderman Vaillancourt, duly seconded by Alderman Shea, it was voted to table Items 17 and 18.

Chairman Lopez addressed Item 19 of the agenda:

TQM process status report submitted by HR.  
(HR recommends item be received and filed.)

On motion of Alderman Vaillancourt, duly seconded by Alderman Sysyn, it was voted to receive and file this item.

Chairman Lopez addressed Item 20 of the agenda:

3rd Quarter Turnover Report (2000) --

On motion of Alderman Shea, duly seconded by Alderman Sysyn, it was voted to receive and file this item.

Chairman Lopez addressed Item 21 of the agenda:

New Hire and Termination listing submitted for informational purposes.

On motion of Alderman Shea, duly seconded by Alderman Sysyn, it was voted to receive and file this item.

Alderman O'Neil stated can I ask a question. This relates to Items 17 and 18. Here is another situation where departments aren't getting together. What is going on in the City of Manchester? The departments aren't getting together.

Chairman Lopez replied well this should have never been on the agenda without making some coordination and this fell through the cracks.

Alderman O'Neil responded it did not fall through the cracks. It is becoming more and more regular here that there is no coordination.

There being no further business to come before the Committee, on motion of Alderman Shea, duly seconded by Alderman Sysyn, it was voted to adjourn.

A True Record. Attest.

Clerk of Committee